

### **Remarks**

Claims 11 and 20 have been amended to more clearly define the invention. Basis for the amendments can be found in the specification on page 8 (lines 3-9 and page 9 line 26 to page 10 line 1. These amendments address the Examiner's comments in section 4 of the office action where he stated that "the claims language does not suggest that the voice and data channel must be separate or treated differently".

In section 1 of the office action the Examiner rejects independent claim 11 under 35 USC §102(e) as being anticipated by Gardner et al (US 5,857,147). Reconsideration is again requested.

Gardner discloses a "method and apparatus for determining the transmission data rate in a multi-user communication system" (Gardner, title). Gardner does not disclose a "link comprising a number of fixed bit rate channels for providing a fixed bandwidth voice service between said user station and said base station and a separate variable bit rate data channel for providing a data service between said user station and said base station" (this application, claim 11). Furthermore Gardner does not teach that "if available bandwidth falls below a pre-determined threshold the capacity management module is arranged to implement a reduced bit rate coding scheme for the variable bit rate data channel whilst leaving the fixed bit rate channels unchanged" (this application, claim 11). As shown clearly in Gardner figures 5, 6, 7, 9 and 10, Gardner teaches that all messages or users are treated equally and that if usage falls above or below a threshold level the transmission rate of every message is modified in an identical manner. This is clearly distinct from the present invention as defined by the amended claim 11 where the voice channels and data channels are treated differently in that a reduced bit rate coding scheme is used on the data channel and the fixed bit rate channels are left unchanged. Consequently the present invention as defined by the amended claim 11 is clearly not anticipated by Gardner.

The Examiner also cites Luddy (US 5,953,346) and Hsu (US 6,314,112). The applicants respectfully refer the Examiner to the arguments made in the previous response of August 28, 2003.


The Examiner also rejects independent claim 20 under 35 USC §102(e) as being anticipated by Gardner. The above arguments in relation to claim 11 are also applicable to claim 20 and the applicants respectfully submit that the rejection of claim 20 cannot be sustained.

Detailed arguments are not presented in respect of the dependent claims, however the arguments of the Examiner should not be taken to be accepted.

In view of the fact that all of the Examiner's comments have been addressed, further and favorable consideration is respectfully submitted.

February 13, 2004

Respectfully submitted,

  
\_\_\_\_\_  
William M. Lee, Jr.  
Registration No. 26,935  
Barnes & Thornburg  
P.O. Box 2786  
Chicago, Illinois 60690-2786  
(312) 214-4800  
(312) 759-5646 (fax)